



ELECTION NEWS

A special informational bulletin
on the implementation of
Michigan election law.

Michigan Department of State - Terri Lynn Land, Secretary of State

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Michigan Supreme Court Clears Way for Conduct of January 15, 2008 Presidential Primary: All Clerks Must Immediately Prepare for Conduct of Presidential Primary

On November 21, 2007, the Michigan Supreme Court overturned the lower court rulings which blocked the conduct of the January 15, 2008 presidential primary. As a consequence, the January 15, 2008 presidential primary will be conducted as originally scheduled. The following discusses a number of procedural points and planning considerations that merit your immediate attention:

Production of Presidential Primary Ballots

Responsibility for production of ballots: The County Election Commission is responsible for the production and purchase of the ballots needed to administer the presidential primary. Instructions and specifications for producing the ballots have been forwarded to all county clerks in the state.

Separate ballots needed: As previously advised, the presidential primary will be conducted as a “closed” primary. Consequently, a minimum of two – and possibly three – ballots will be needed to administer the presidential primary as described below:

- If a local jurisdiction is not conducting a special election in conjunction with the presidential primary, two ballots will be needed for the administration of the primary: 1) a ballot which lists the Republican Party candidates and 2) a separate ballot which lists the Democratic Party candidates.
- If a local jurisdiction is conducting any type of special election in conjunction with the presidential primary, three ballots will be needed for the administration of the primary: 1) a ballot which lists the Republican Party candidates and the proposals and/or offices related to the special election 2) a ballot which lists the Democratic Party candidates and the proposals and/or offices related to the special election and 3) a ballot which contains only the proposals and/or offices related to the special election. The third ballot must be produced for voters who wish to participate in the special election – but do not wish to record a request for the Republican Party ballot or the Democratic Party ballot.

Special partisan primaries: It is important to note that in an instance where a special partisan primary must be conducted in conjunction with the presidential primary to nominate candidates for a vacant county commissioner position, the following must be observed:

- The Republican candidates who filed for the vacancy must be shown on the Republican Party presidential primary ballot – but not on the Democratic Party presidential primary ballot.
- The Democratic candidates who filed for the vacancy must be shown on the Democratic Party presidential primary ballot – but not on the Republican Party presidential primary ballot.
- Both the Republican Party and Democratic Party candidates who filed for the vacancy must be shown on the third ballot which contains only the proposals and/or offices related to the special election.

Candidate name rotations: All candidate names must be rotated on a precinct by precinct basis as required by law.

“Uncommitted” and write-in votes: Voters must be extended the opportunity to cast an “uncommitted” vote or a write-in vote on each party ballot. Consequently, the word “Uncommitted” must be printed after the last candidate name on each party ballot and a write-in space must be provided beneath the “uncommitted” vote option. The “uncommitted” vote option and the write-in vote option are not rotated.

Ballot serial numbers: All ballots must be printed with the customary ballot serial number. To avoid any chance that the ballot serial number recorded for a voter could be used to determine the party ballot selected by the voter, the Republican Party ballots must begin with ballot serial number “1”; the Democratic Party ballots must begin with ballot serial number “1”; and the third

ballot containing only the special election proposals and/or offices (if any) must begin with ballot serial number “1.”

Determining Ballot Quantities

When determining the number of ballots to order for the administration of the presidential primary, there are two decisions which must be made:

- 1) the total quantity of ballots needed by the jurisdiction; and
- 2) how the ballot quantity total should be divided between the two – or three – ballot types needed by the jurisdiction. (The number of Republican Party ballots, Democratic Party ballots and special election ballots for “no party declaration” voters ordered for a jurisdiction do not have to be equal.)

The following formulas are offered to assist with the above decisions. While the formulas are offered as general guidance on these matters, it is strongly emphasized that the county is solely responsible and accountable for all ballot ordering decisions. If there are any unique or unusual circumstances that could impact the quantity or type of ballots needed by a jurisdiction, it is important that the county give full consideration to these factors and adjust the suggested formulas as appropriate.

Estimating total ballot quantities: When estimating the number of ballots needed by a jurisdiction, start with the turnout in the jurisdiction for the February 22, 2000 presidential primary and add the Democratic Party turnout in the jurisdiction for the March 17, 1992 presidential primary. After adding the two figures together, increase the number by at least 25%. Do not fail to increase the sum of the two figures by more than 25% if deemed necessary.

Determining how the ballot quantity total should be divided by ballot type: When determining the number of Republican Party ballots, Democratic Party ballots and special election ballots for “no party declaration” voters to order, careful consideration must be given to the partisan composition of the jurisdiction and the anticipated number of voters who will be interested in participating in the special election only (if the jurisdiction is conducting a special election). As a starting point for estimating the number of Republican Party ballots which will be needed, take the total Republican Party turnout in the jurisdiction for the February 22, 2000 presidential primary and increase this figure by at least 25%. As a starting point for estimating the number of Democratic Party ballots which will be needed, take the total Democratic Party turnout in the jurisdiction for the March 17, 1992 presidential primary and increase this figure by at least 25%. Do not fail to increase the party turnout figures by more than 25% if deemed necessary.

Commercial Forms Needed for Administration of Presidential Primary

All cities and townships must purchase three specially produced forms for the administration of the presidential primary:

- 1) A special absent voter ballot application form which contains “ballot selection” checkoff boxes on a detachable stub.

- 2) A special Application to Vote form which contains “ballot selection” checkoff boxes and the “Affidavit of Voter Not In Possession of Picture Identification” on the reverse side. (Note: For the administration of the presidential primary, the “Affidavit of Voter Not in Possession of Picture Identification” must be printed on the reverse side of the Application to Vote form.)
- 3) Poll books which contain the number of ballot summary statements needed for each precinct in the jurisdiction. (A separate ballot summary statement is needed for each ballot format which will be issued in the precinct.)

Samples of the absent voter ballot application form and Application to Vote form needed for the administration of the presidential primary have been released to the commercial vendors throughout the state who market election forms. (Copies of the sample forms released to the vendors are provided with this newsletter.) While the sample forms may be tailored to meet the administrative preferences of Michigan’s city and township clerks, all “customized” versions of the forms must be submitted to the Bureau for review and approval prior to production.

Email address for submitting customized forms for approval: McRills@Michigan.gov

Fulfilling Immediate Requests for Absentee Ballot Application Forms

Due to the close proximity of the presidential primary, an “Absentee Voter Ballot Selection Form” is supplied with this newsletter. The form can be copied as needed and stapled to a standard absent voter ballot application form. The use of the “Absentee Voter Ballot Selection Form” will permit local clerks to immediately distribute absent voter ballot application forms for the presidential primary to those voters who request them.

Write-In Candidates

Appropriate information will be forwarded to all county clerks should anyone file a “Declaration of Intent” as a write-in candidate for the presidential primary. (At this date, there are no “declared” write-in candidates for the primary.) The deadline for filing a “Declaration of Intent” for the presidential primary elapses at 4:00 p.m. on Friday, January 4, 2008. As noted above, a write-in space must be provided on both the Republican Party ballot and the Democratic Party ballot; this remains true even if no candidates file a “Declaration of Intent” for the primary.

Handling Extended FPCA Absent Voter Ballot Requests

The Help American Vote Act stipulates that a Federal Post Card Application (FPCA) used to request absent voter ballots must be honored “through the next 2 regularly scheduled general elections for Federal office....” As a consequence, an overseas military or civilian voter who submitted an FPCA in 2006 is automatically eligible to receive an absent voter ballot for the January 15, 2008 presidential primary.

As the January 15, 2008 presidential primary will be conducted as a “closed” primary, any overseas military or civilian voters who are automatically eligible to receive an absent voter ballot for the presidential primary must indicate if they wish to receive the Democratic Party

ballot, the Republican Party ballot or the “no party declaration” special election ballot (if any) before an absent voter ballot can be sent to the voter.

Given the above, all overseas military and civilian voters who are automatically eligible to receive an absent voter ballot for the January 15, 2008 must be contacted via mail or email with an explanation of their ballot selection options as soon as possible. An absent voter ballot for the presidential primary cannot be sent to the voter unless and until the voter responds with his or her ballot selection choice.

Suggested wording for the special communication which must be sent to overseas military and civilian voters who are automatically eligible to receive an absent voter ballot for the presidential primary is provided with this newsletter.

Party Ballot Selection Confidentiality Protection Procedures

The legislation which directs the conduct of the January 15, 2008 presidential primary (PA 52 of 2007) stipulates that the “information acquired or in the possession of a public body indicating which participating political party ballot an elector selected at a presidential primary is confidential” and exempt from public disclosure. Consequently, Michigan’s local election officials are prohibited from releasing the information to anyone other than the Secretary of State. Similarly, the Secretary of State is prohibited from releasing the information to anyone other than the two political party chairpersons.

Given the above party ballot selection disclosure restriction, all city and township clerks must implement the following measures to safeguard the confidentiality of the party ballot selections recorded by the voters who participate in the presidential primary:

- In an instance where a voter records his/her party ballot selection on an absent voter ballot application form, the party ballot selection must be detached from the application form before the form is placed on file for public review under the disclosure requirements provided under Michigan election law, MCL 168.760. The portion of the form which bears the voter’s party ballot selection must be carefully secured in the clerk’s office away from public view. (Be sure the voter’s name and street address appear on the portion of the application form which bears the voter’s party ballot selection before detaching and storing the party ballot selection.)
- In an instance where an absentee ballot applicant indicates his/her party ballot selection in an email, letter, post card or on the “Absentee Voter Ballot Selection Form” which accompanies this newsletter, the communication bearing the party ballot selection must be secured in the clerk’s office away from public view.
- All Application to Vote/Ballot Selection Forms completed by the voters who attend the polls to participate in the presidential primary must be secured in the clerk’s office away from public view after the close of the polls.

PA 52 of 2007 stipulates that any person who uses the party ballot selection information for an unauthorized purpose is guilty of a misdemeanor punishable by “a fine of \$1,000.00 for each

voter record that is improperly used or imprisonment for not more than 93 days, or both.” The penalty would apply to an election official who violates the restrictions on the release of the party ballot selection information.

The legislation further stipulates that the Secretary of State and county, city and township clerks “shall destroy the information indicating which participating political party ballot each elector selected at the presidential primary … immediately after the expiration of the 22-month federal election records retention period.”

Looking Ahead

The following informational materials, procedures and supplies will be provided in the coming weeks:

Party ballot selection data compilation and transmission procedures: As required under the presidential primary legislation, procedures for 1) compiling the political party ballot selections made by the voters who participate in the presidential primary and 2) transmitting the data to the Department of State will be provided in advance of the presidential primary.

Supplies: State election seals and voter instructional placards will be shipped to the county clerks throughout the state in early December. As is customary, the county clerks will be responsible for distributing the supplies to the cities and townships in their respective counties.

Unofficial and official result documents: The documents needed to record the results of the presidential primary will be mailed to the county clerks throughout the state in early January 2008. The unofficial and official results compiled for the presidential primary must be reported by county and by congressional district as required by law.

Election Resources Available on Department’s Website

A wide variety of election related information and materials can be accessed through the Department’s website <www.michigan.gov/sos>. To locate, click on “Elections in Michigan”; on the Elections in Michigan page, click on “Information for Election Administrators.” The information and materials currently available on the website include the following:

- Michigan election law.
- January 15, 2008 presidential primary calendar.
- May 6, 2008 election date calendar.
- 2008 August/November election dates.
- Provisional balloting implementation materials.
- Michigan voter identification requirement implementation materials.

- AutoMARK implementation materials.

Have a Question or Need Assistance?

If you have a question or need assistance with your election related duties, please do not hesitate to contact the Michigan Department of State's Bureau of Elections. We will be happy to assist in any way possible!

Mailing address: Michigan Department of State
Bureau of Elections
PO Box 20126
Lansing, MI 48901-0726

Phone: (517) 373-2540

Email: elections@michigan.gov

Fax: (517) 373-0941

Absent Voter Ballot Application/Ballot Selection Form

Application for absent voter ballot for the January 15, 2008 Presidential Primary

I, _____, a qualified and registered elector of the _____ Precinct of the city of _____ or township of _____ in the County of _____ and State of Michigan, apply for an official ballot, or ballots, to be voted by me at the presidential primary election as requested in this application.

You **must** select one ballot type below. If you do not select a ballot type, a ballot will **not** be issued to you.

The statutory grounds on which I base my request are (check applicable reason):

- I expect to be absent from the community in which I am registered for the entire time the polls are open on election day.
- I am physically unable to attend the polls without the assistance of another.
- I cannot attend the polls because of the tenets of my religion.
- I have been appointed an election precinct inspector in a precinct other than the precinct where I reside.
- I am 60 years of age or older.
- I cannot attend the polls because I am confined to jail awaiting arraignment or trial.

Send absent voter ballot to me at:

My registered address:

Street Address or R.R.

Street Address or R.R.

Post Office City

State

Zip Code

Post Office City

State

Zip Code

**Sign
Here:**

I DECLARE THE FOREGOING STATEMENT TO BE TRUE

Signature

Date

WARNING:

A person making a false statement in this absent voter ballot application is guilty of a misdemeanor. It is a violation of Michigan election law for a person other than those listed in the instructions to return, offer to return, agree to return, or solicit to return your absent voter ballot application to the clerk. An assistant authorized by the clerk who receives absent voter ballot applications at a location other than the office of the clerk must have credentials signed by the clerk. Ask to see his or her credentials before entrusting your application with a person claiming to have the clerk's authorization to return your application.

FILL OUT THIS BOTTOM PORTION ONLY IF YOU ARE ASSISTING A VOTER IN FILING THIS APPLICATION

Certificate of Authorized Registered Elector Returning Absent Voter Ballot Application

I certify that my name is _____, my address is _____, and my date of birth is _____; that I am delivering the absent voter ballot application of _____ at his or her request; that I did not solicit or request to return the application, that I have not made any markings on the application; that I have not altered the application in any way; that I have not influenced the applicant; and that I am aware that a false statement in this certificate is a violation of Michigan election law.

**Sign
Here:**

Signature

Date

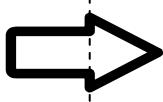
INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS

Step 1. After completely filling out the application, sign and date the application in the place designated. Your signature must appear on the application or you will not receive an absent voter ballot.

Step 2. Deliver the application by 1 of the following methods:

- (a) Place the application in an envelope addressed to the appropriate clerk and place the necessary postage upon the return envelope and deposit it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier.
- (b) Deliver the application personally to the office of the clerk, to the clerk, or to an authorized assistant of the clerk.
- (c) In either (a) or (b), a member of the immediate family of the voter including a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild or a person residing in the voter's household may mail or deliver the application to the clerk for the applicant.
- (d) In the event an applicant cannot return the application in any of the above methods, the applicant may select any registered elector to return the application. The person returning the application must sign and return the certificate at the bottom of the application.

Important Note:
You must select one ballot type. If you do not select a ballot type, a ballot will **not** be issued to you.



SELECT BALLOT TYPE HERE

Please print full name

Street Address or R.R.

I hereby request the ballot type marked below for this election. (You must select **one** ballot type below. If you do not select a ballot type, a ballot will **not** be issued to you.)

SELECT ONLY ONE BALLOT TYPE:

- Republican Party Presidential Primary Ballot.
- Democratic Party Presidential Primary Ballot.
- Ballot without Presidential Primary (if available). Note: This ballot choice is for voters not voting in the presidential primary who wish to vote on local proposals or candidates (if on ballot).

ABSENTEE VOTER BALLOT SELECTION FORM
-- January 15, 2008 Presidential Primary --

A standard absent voter ballot application must be submitted with this form.

Please print full name

Street Address or R.R.

I hereby request the ballot type marked below for the January 15, 2008 presidential primary. (You must select **one** ballot type below. If you do not select a ballot type, a ballot will **not** be issued to you.)

SELECT ONLY ONE BALLOT TYPE:

- Republican Party Presidential Primary Ballot.
- Democratic Party Presidential Primary Ballot.
- Ballot without Presidential Primary (if available). Note: This ballot choice is for voters not voting in the presidential primary who wish to vote on local proposals or candidates (if on ballot).

ABSENTEE VOTER BALLOT SELECTION FORM
-- January 15, 2008 Presidential Primary --

A standard absent voter ballot application must be submitted with this form.

Please print full name

Street Address or R.R.

I hereby request the ballot type marked below for the January 15, 2008 presidential primary. (You must select **one** ballot type below. If you do not select a ballot type, a ballot will **not** be issued to you.)

SELECT ONLY ONE BALLOT TYPE:

- Republican Party Presidential Primary Ballot.
- Democratic Party Presidential Primary Ballot.
- Ballot without Presidential Primary (if available). Note: This ballot choice is for voters not voting in the presidential primary who wish to vote on local proposals or candidates (if on ballot).

November 21, 2007

Suggested wording for special communication which must be sent to overseas military and civilian voters who are automatically eligible to receive an absent voter ballot for the presidential primary

Dear Absentee Voter:

The Help America Vote Act provides that a Federal Post Card Application (FPCA) used to request absent voter ballots must be honored “through the next 2 regularly scheduled general elections for Federal office....” As a consequence, an overseas military or civilian voter who submitted an FPCA for an election conducted in 2006 is automatically eligible to receive an absent voter ballot for Michigan’s January 15, 2008 presidential primary. ***Our records show that you are among those overseas military and civilian voters who are automatically eligible to receive an absent voter ballot for the presidential primary.***

As Michigan’s January 15, 2008 presidential primary will be conducted as a “closed” primary, any overseas military or civilian voters who are automatically eligible to receive an absent voter ballot for the presidential primary must indicate if they wish to receive the Democratic Party ballot, the Republican Party ballot or the “no party declaration” special election ballot (if any) before an absent voter ballot can be sent to the voter.

Given the above, please be advised that you must complete and return the bottom portion of this letter via email, fax or mail to your city or township clerk’s office in Michigan as soon as possible if you wish to participate in Michigan’s presidential primary. Contact information is provided below:

Mailing address:

[Enter office contact information here.]

Fax number:

Email address:

Detach and return this portion of letter.

**ABSENTEE VOTER BALLOT SELECTION FORM
-- January 15, 2008 Presidential Primary --**

Please print full name

Street Address or R.R.

I hereby request the ballot type marked below for the January 15, 2008 presidential primary. (You must select **one** ballot type below. If you do not select a ballot type, a ballot will **not** be issued to you.)

SELECT ONLY ONE BALLOT TYPE:

- Republican Party Presidential Primary Ballot.
- Democratic Party Presidential Primary Ballot.
- Ballot without Presidential Primary (if available). Note: This ballot choice is for voters not voting in the presidential primary who wish to vote on local proposals or candidates (if on ballot).

Application to Vote/Ballot Selection Form

Picture identification requirement: All Michigan voters must show a Michigan driver's license, a Michigan personal identification card or some other acceptable form of picture identification before voting. A voter who is unable to show picture identification can vote after signing an affidavit attesting that he/she is not in possession of picture identification.

January 15, 2008 Presidential Primary

Precinct _____

I certify that I am a registered and qualified elector in the above precinct and hereby make application to vote at this election.

ELECTION INSPECTOR COMPLETES
<input type="checkbox"/> AFFIDAVIT ON REVERSE COMPLETED
ELEC. INSP. INITIAL
BALLOT NO.
VOTER NO.

PRINT NAME: _____
DATE OF BIRTH: _____
RESIDENT ADDRESS: _____ _____
SIGN HERE  X SIGNATURE OF VOTER

**SELECT BALLOT TYPE
HERE**

I hereby request the ballot type marked below for this election. (You must select **one** ballot type below. If you do not select a ballot type, a ballot will **not** be issued to you.)

SELECT ONLY ONE
BALLOT TYPE:

Republican Party Presidential
Primary Ballot.

Democratic Party Presidential
Primary Ballot.

Ballot without Presidential Primary
(if available). Note: This ballot
choice is for voters not voting in the
presidential primary who wish to vote
on local proposals or candidates (if on
ballot).

(Reverse)

AFFIDAVIT OF VOTER NOT IN POSSESSION OF PICTURE IDENTIFICATION

I, _____ hereby affirm that I am
(Print Name)

not in possession of a driver's license, a state-issued personal identification card or any other acceptable form of picture identification and wish to vote.

By signing this affidavit, I swear/affirm that the statements made above are true.

SIGNATURE OF VOTER: X _____

Penalty: Making a false statement in this affidavit is perjury, punishable by a fine up to \$1,000.00 or imprisonment for up to 5 years, or both.

To be completed by Election Inspector

Sworn and subscribed to before me this _____ day of _____,

I certify that the elector named above has completed the above affidavit in my presence.

X

Signature of Election Inspector